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DEPT PASS TO EC CARICOM COLLECTIVE FOR INFO

STATE FOR WHA/CAR (ACADIEUX)
(VDEPIRRO) (WSMITH) WHA/EPSC (MROONEY) (FCORNEILLE)
EEB/ESC/IEC/EPC (MCMANUS)
SANTO DOMINGO FOR FCS AND FAS
TREASURY FOR ERIN NEPHEW
INR/RES (RWARNER)

E.O. 12958: N/A

TAGS: [PGOV](#) [ECON](#) [SOCI](#) [JM](#) [XL](#)

SUBJECT: JAMAICA: GOVERNING PARTY TO CHALLENGE PARLIAMENTARY
QUALIFICATIONS OF OPPOSITION LEGISLATORS

REF: A. KINGSTON 232

[1](#)B. KINGSTON 436

[1](#)C. 08 KINGSTON 398

[1](#)D. KINGSTON 405

[1](#)E. KINGSTON 315

Summary

[1](#)1. (U) Summary: In reaction to protracted legal challenges against the qualifications of four of his ruling Jamaica Labour Party's (JLP) Members of Parliament (MP), Prime Minister (PM) Bruce Golding indicated on May 29 that he would consider mounting similar efforts against "several" sitting MPs from the opposition People's National Party (PNP) on dual citizenship grounds. Undeterred, the PNP claimed it may challenge still more "Government members" alleged to be ineligible. A series of by-elections based on such legal challenges could fundamentally alter Jamaica's political landscape, paralyze the nation's political system during a time of turmoil and public safety concerns, heighten public cynicism over government credibility and fiscal priorities, and perhaps force Golding to call a snap general election. End Summary.

Background

[1](#)2. (U) The constitutional dispute arose following the September 2007 general election that swept the PNP out of power after eighteen years and returned the JLP to Gordon House. Four PNP candidates subsequently filed electoral petitions in court against the JLP candidates who had bested them at the ballot box, contending that the Jamaican constitution prohibited from nomination for public office any candidate who had expressed "allegiance" to a foreign power. In February, 2009, the Supreme Court ruled that JLP MP Daryl Vaz's August 2007 nomination had been unconstitutional because of his dual U.S.-Jamaican citizenship and the fact that he had applied for and traveled on a U.S. passport. Vaz had renounced his U.S. citizenship prior to the ruling and subsequently won re-election to his West Portland constituency in the March by-election (Reftel A).

[1](#)3. (U) Meanwhile, Jamaica is preparing for a June 16 by-election to fill another seat vacated when the Supreme Court ruled May 21 that JLP incumbent Gregory Mair had also been constitutionally ineligible when nominated in 2007 due to his dual Jamaican/Venezuelan citizenship (Reftel B). Having now renounced his Venezuelan citizenship, Mair will face PNP candidate Granville Valentine to represent the North East St. Catherine constituency in Parliament. Two additional PNP challenges against JLP MPs are also likely to result in by-elections over the summer (Reftel B). Were the PNP to

win two or more of those races, the ruling JLP would lose its slender 31-28 majority in Parliament (Note: Because of the Court's ruling, Mair's seat is temporarily vacant. End Note), and PM Golding probably would be forced to call a snap general election.

Tit for Tat

¶4. (U) The PNP's electoral challenges have clearly irritated Golding's administration, paralyzed parliamentary action on a number of budgetary and public safety measures, and cast a pall of uncertainty over Jamaican politics. Speaking to reporters on May 29, Golding said he had instructed Government of Jamaica (GOJ) attorneys to challenge the legitimacy of "several" PNP MPs. Although he mentioned no names, the PM claimed that as many as six seats were under investigation and that the JLP had "irrefutable evidence" of ineligibility in some cases, as well as "evidence that will have to be tested" in others.

¶5. (U) In return, PNP Opposition Leader Portia Simpson Miller threatened to file more challenges against sitting JLP MPs, although the PNP acknowledged that at least two of its MPs do in fact have dual citizenship and would be vulnerable to the same types of legal challenges they've raised against the JLP MPs. The two in question are widely believed to be Sharon Hay Webster of the South Central St. Catherine constituency and Ian Hayles of the Hanover Western constituency.

¶6. (U) Several MPs are also believed to have Legal Permanent Residency (LPR) in the U.S., which also could raise a number of eligibility questions under Jamaican law and the Jamaican Constitution. According to Article V, Section 39 (1)(b) of the Jamaican Constitution, an otherwise eligible candidate for public

office must have been "ordinarily resident in Jamaica for the immediately preceding twelve months" prior to nomination. However, the Department of Homeland Security (DHS) might consider an LPR who has spent such a long period abroad to have abandoned his or her residency. To maintain residency status, LPRs who remain outside of the U.S. for more than a year must obtain a reentry permit or a returning resident visa. Furthermore, DHS regulations prohibit LPRs from moving to another country with the intention of living there permanently, while the Jamaican Constitution requires that eligible candidates for public office be "ordinarily resident" in Jamaica. It may be problematic for a Jamaican LPR to meet the constitutional requirements for election to Parliament without jeopardizing his or her U.S. residency status.

Conclusion

¶6. (U) In the past, the PM has been critical of resorting to the courts to overturn election results in particular constituencies, calling it a "blatant attempt to constitutionally overthrow" the JLP-led government. However, his recent announcement that the JLP might challenge the eligibility of sitting PNP MPs suggests that the PM and his administration are reconsidering that position. A series of by-elections based on such legal challenges could fundamentally alter Jamaica's political landscape, paralyze the nation's political system during a time of turmoil and public safety concerns, heighten public cynicism over government credibility and fiscal priorities, and perhaps force Golding to call a snap general election. Eight or more by-elections over the course of several months could potentially bolster the JLP's slim 31-28 majority and provide Golding with the political muscle to push through his austerity budget and several other major pieces of pending legislation. Alternatively, given Jamaica's dire problems of crime and unemployment, a snap election might return control of Gordon House to Simpson Miller's PNP.

¶7. (U) An obvious solution might be for the PM to dissolve the government, call snap elections, and settle the issue once and for all, this time presumably with eligible candidates more thoroughly vetted by their respective parties. The PM has resisted such an option, however, as counter to the "mandate of the people." When the dual nationality issue first emerged following the 2007 general elections, Golding sent feelers to the PNP proposing a mutual

agreement whereby the two parties would refrain from contesting any by-elections ordered by the courts, thus maintaining the political status quo while allowing GOJ to address the nation's pressing economic and public safety issues; the PNP, however, was unreceptive to such entreaties (Reftel C). More recently, Golding suggested that the JLP and PNP could resolve the dual nationality issue amicably through legislation, although the PNP has insisted on tying the issue to other constitutional reforms; moreover, many insist that constitutional provisions may only be altered through a national referendum. In the current electoral climate, given Jamaica's economic woes (Reftel D and E) and the austere budget Golding's administration has presented to Parliament, it is by no means certain that a snap election would return the JLP to power, much less bolster its numbers in Parliament. End Comment.

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